UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
ELALLAM, AHMED

ART UNIT	PAPER NUMBER
2471	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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	Application No.	Applicant(s)
Office Action Summary	10/596,264	FOSKETT ET AL.
	Examiner	Art Unit	
	AHMED ELALLAM	2471	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>29 January 2010</u>.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-22</u> is/are pending in the application.
   4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-22</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
         application from the International Bureau (PCT Rule 17.2(a)).
   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1.   The indicated allowability of claims 9-12, 15-18, 20-22 is withdrawn in view of the

newly discovered reference(s) to Rabipour et al, US 7639601. Rejections based on the

newly cited reference(s) follow. (In the following rejection corresponding US publication

2004/0004957 A1 is used).

Claim Objections

2.   Claims 19 and 20 are objected to because of the following informalities:

Regarding claim 19 and 20, the preamble of these claims is directed to a method,

however claim 15 from which they depend is a system claim. The preamble should be

directed to the system instead of the method.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

3.   Claims 15-20 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

Regarding claim 15, claim 15 is directed to a system having a structural element

of a first media gateway coupled to base station controller BSC, and a network entity.

Claim 15 also specifies a plurality of software instructions executable by the system.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Ravipour US2004/0004957 A1. Hereinafter referred to as Rabipour.

As to independent claims 1, 9, 15 and 21:

Regarding claim 1, with reference to figures 2-4, Rabipour discloses method for

providing packet-based tandem free operation (TFO) in a telecommunications system

having a first remote entity (claimed first network element), a second remote entity

(claimed third network element), and a gateway positioned between the first remote

entity and second remote entity (claimed second network element positioned between

the first and third network elements), see paragraph [0022], the method comprising:

The gateway comprising a control entity for monitoring end-to-end connection

and for detecting the presence of in-band messages received from the first remote

entity, the in-band messages being indicative of an attempt by the first remote entity to

enter a tandem-free mode of operation, and in the absence of an in-band response message from the second remote entity, the control entity is operative to generate and send an in-band response message to the first remote entity and negotiate therewith establishment of a second connection with the first remote entity, while maintaining the portion of the end-to-end connection between the gateway and the second remote entity. See paragraph [0022]. (Claimed monitoring packets sent from the first network element to the third network element to identify a TFO request message; monitoring packets sent from the third network element to the first network element to identify a TFO acknowledgement message from the third network element in response to the TFO request message; sending a substitute TFO acknowledgement message from the second network element to the first network element if no TFO acknowledgement message is identified from the third network element; and establishing a TFO call leg between the first and second network elements and establishing a non-TFO call leg between the second and third network elements after sending the substitute TFO acknowledgement message from the second network element).

Regarding claim 9, with reference to figures 2-4, Rabipour discloses method for providing packet-based tandem free operation (TFO) in a telecommunications system having a first remote entity configured for tandem free operation (claimed first device configured for TFO capability), a second remote entity (claimed second device not configured for TFO capability); and a gateway positioned between the first remote entity and second remote entity (claimed first media gateway positioned between a first device second device, see paragraph [0022], the method comprising:

The gateway comprising a control entity for monitoring end-to-end connection and for detecting the presence of in-band messages received from the first remote entity, the in-band messages being indicative of an attempt by the first remote entity to enter a tandem-free mode of operation, and in the absence of an in-band response message from the second remote entity, the control entity is operative to generate and send an in-band response message to the first remote entity and negotiate therewith establishment of a second connection with the first remote entity, while maintaining the portion of the end-to-end connection between the gateway and the second remote entity. See paragraph [0022]. (claimed monitoring packets sent from the first device to the second device to identify a TFO request, wherein the monitoring is performed by the media gateway; monitoring packets sent from the second device to the first device to identify a TFO acknowledgement sent in response to the TFO request, wherein the monitoring is performed by the media gateway; sending a substitute TFO acknowledgement from the media gateway to the first device if no TFO acknowledgement is identified from the second device; and establishing a first leg between the first device and the media gateway using TFO and establishing a second leg between the media gateway and second device without using TFO after sending a TFO acknowledgement from the media gateway).

Regarding claim 15, claim 15 is a system claim having the same scope of claim 9, with the additional limitation of the first media gateway being coupled to a BSC having TFO capability, and software instructions executable by the system (the system being the first media gateway as understood from the specification). Rabipour discloses

media gateway in connection with a BSC, see figure 1, and paragraph [0033], Rabipour

further discloses implementing the method steps using computer readable storage

medium containing program element, see claim 63.

Regarding claim 21, with reference to figures 2-4, Rabipour discloses method for

providing packet-based tandem free operation (TFO) in a telecommunications system

having a first remote entity (claimed first network element), a second remote entity

(claimed third network element), and a gateway positioned between the first remote

entity and second remote entity (claimed second network element positioned between

the first and third network elements), see paragraph [0022], the method comprising:

The gateway comprising a control entity for monitoring end-to-end connection

and for detecting the presence of in-band messages received from the first remote

entity, the in-band messages being indicative of an attempt by the first remote entity to

enter a tandem-free mode of operation, and in the absence of an in-band response

message from the second remote entity, the control entity is operative to generate and

send an in-band response message to the first remote entity and negotiate therewith

establishment of a second connection with the first remote entity, while maintaining the

portion of the end-to-end connection between the gateway and the second remote

entity. See paragraph [0022]. (means for monitoring packets sent from the first network

element to the second network element during call setup to identify a TFO request

message; means for establishing a non-TFO call if no TFO request message is

identified; means for monitoring packets sent from the second network element to the

first network element to identify a TFO acknowledgement message; means for sending

a substitute TFO acknowledgement message from the third network element to the first

network element if no TFO acknowledgement message is identified from the second

network element; and means for establishing a TFO call leg between the first and third

network elements and establishing a non-TFO call leg between the second and third

network elements after sending a TFO acknowledgement message from the third

network element). Rabipour also discloses that the gateway also includes a control

entity operative to monitor the second connection; detect the presence of TFO

messages received from the second remote entity; in the presence of in-band TFO

messages received from the second remote entity, establish an end-to-end TFO

connection between the first and second remote entities, see paragraph [0024].

(Claimed means for establishing a TFO call between the first and second network

entities if a TFO acknowledgement message is identified from the second network

element).

As to dependent claims 2-8, 10-14, 16-20 and 22:

Regarding claims 2, 10, 17 and 22, Rabipour discloses that after a timeout

period, recognizing that the entity connected at the other end is not eTFO-capable, the

gateway 220 can proceed to initiate its own response. See paragraph [0049]. (Claimed

determining whether a timeout period has elapsed without identifying the TFO

acknowledgement message from the third network element ; and sending the substitute

TFO acknowledgement message from the second network element only if the timeout

period has elapsed, as in claims 2 and 22, and determining whether a timeout period

has elapsed without identifying the TFO acknowledgement from the second device; and

sending the TFO acknowledgement from the media gateway only if the timeout period

has elapsed, as in claim 10, and instructions for determining whether a

timeout period has elapsed without identifying the TFO acknowledgement from the

network entity; and instructions for sending the TFO acknowledgement from the first

media gateway only if the timeout period has elapsed, as in claim 17).

Regarding claim 3, 4, 11 and 12, claims 3 and 11 calls for starting the timeout

period after identifying the TFO request message, and claims 4 and 12 calls for setting

the timeout period to a predefined period of time prior to starting the timeout period.

Rabipour implicitly discloses these features because Rabipour specifies that after a

timeout period, recognizing that the entity connected at the other end is not eTFO-

capable, the gateway 220 can proceed to initiate its own response. See paragraph

[0049]. (Note: The timeout period being initiated when the Gateway receive the TFO

request, as discussed above claim 1).

Regarding claim 5, Rabipour discloses the entity between the end devices is a

media gateway, see paragraph [0022].

Regarding claim 6, Rabipour discloses that the gateway is equipped with the

intelligence to emulate a eTFO-capable entity. See paragraph [0048], (see also

paragraphs [0038] and [0041]). (Claimed the TFO call leg includes the use of enhanced

TFO (eTFO)).

Regarding claims 7, 13, and 18, Rabipour discloses in an embodiment that when the gateway is connected to a non-eTFO-capable entity, wherein the gateway recognizes the other end is not eTFO-capable, the coding and decoding is shifted to the gateway in stead of the TRAU. See paragraphs [0048]-[0049]. (Claimed establishing a non-TFO call if no TFO request message is identified).

Regarding claims 8, 14, and 19, Rabipour discloses that the gateway, including an interface for allowing establishment of a first connection to a first remote entity and a second connection to a second remote entity, the first connection being a TFO connection. The gateway also includes a control entity operative to monitor the second connection; detect the presence of TFO messages received from the second remote entity; and in the presence of in-band TFO messages received from the second remote entity, establish an end-to-end TFO connection between the first and second remote entities. See paragraph [0024]. (Claimed establishing an end-to-end TFO call if a TFO acknowledgement message is identified from the third network element, as in claim 8; and establishing an end-to-end TFO call if the substitute TFO acknowledgement is identified from the network entity, as in claims 14 and 19).

Regarding claim 16, with reference to figure 5, Rabipour discloses a Mobile Switching Center 520 connected to gateway 530. (Claimed system further comprising at least a first mobile switching center coupled to the first media gateway.

Regarding claim 20, with reference to figure 2, Rabipour shows a first gateway (control entity with TRAU 12), and a second gateway 220 between the first gateway and the network 240. Rabipour also discloses the second gateway being connected to a

non-eTFO-capable entity and is equipped with the intelligence to emulate a eTFO-capable entity, TRAU 12 proceeds to send TFO setup information in an attempt to communicate with a remote entity 260 via a gateway 220, The gateway 220 monitors the messages but, in anticipation of a response from remote entity 260, it does not respond, see paragraph [0048]. Additionally, Rabipour discloses that after a timeout period, recognizing that the entity connected at the other end is not eTFO-capable, the gateway 220 can proceed to initiate its own response, with the ensuing handshaking resulting in the transmission of TFO speech information through a packet-switched communication path 250 established through the network 240, see paragraph [0049]. Further, Rabipour discloses using computer readable storage medium containing program element, see claim 63. (Claimed second media gateway positioned between the first media gateway and the network entity; instructions for monitoring packets sent from the first media gateway to the network entity to identify a TFO request; instructions for monitoring packets sent from the network entity to the first media gateway to identify a TFO acknowledgement; instructions for sending a substitute TFO acknowledgement from the second media gateway to the first media gateway if no TFO acknowledgement is identified from the network entity; and instructions for establishing a first leg between the first and second media gateways using TFO and establishing a second leg between the second media gateway and the network entity without using TFO after sending a TFO acknowledgement from the second media gateway).

Response to Arguments

5.   Applicants' Amendment to claims 1-8, 13, 14, and 19 have overcome the

rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in the previous Office action.

Applicants' Amendment also overcomes the objection to claims 1, 9, 15, 20 and

21.

Examiner appreciated Attorney Raffi Gostanian cooperation during the phone call

of 03/22/2010 to overcome the 101 issues with regard to claim 15 in which Applicants

agreed to change the "system" in line 6, to "first media gateway".

However, an interference search resulted in newly published patent U.S 7639601

that claim similarly the same claimed subject matter (see claim 1 of the patent),

therefore the allowability has been withdrawn.

Examiner's Note: Examiner has cited particular paragraphs in the reference

applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings of the art and are

applied to specific limitations within the individual claim, other passages and figures

may apply as well. It is respectfully requested from the applicant in preparing responses

to fully consider the reference in entirety as potentially teaching all or part of the

claimed invention, as well as the text of the passage taught by the prior art or disclosed

by the examiner.

In the case of amending the claimed invention, Applicants are respectfully

requested to indicate the portion(s) of the specification which dictate(s) the structure

relied on for proper interpretation and also to verify and ascertain the metes and bounds

of the claimed invention.

Conclusion

6.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure. See Form PTO-892.

        Any inquiry concerning this communication or earlier communications from the

examiner should be directed to AHMED ELALLAM whose telephone number is

(571)272-3097. The examiner can normally be reached on 7-5:30.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Chi H. Pham can be reached on (571) 272-3179. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

        Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/AHMED   ELALLAM/   /Chi H Pham/
Examiner, Art Unit 2471   Supervisory Patent Examiner, Art
4/20/10   Unit 2471